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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/526,600	03/16/2000	Thomas Patrick Newberry	RCA 89,602	1687

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THOMSON LICENSING INC.  
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EXAMINER

HUYNH, SON P

ART UNIT PAPER NUMBER

2611

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/526,600	<b>Applicant(s)</b> NEWBERRY ET AL.	
	<b>Examiner</b> Son P. Huynh	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-16 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 14-16 is/are allowed.
- 6) ☒ Claim(s) 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 10, paragraph 3-page 13, paragraph 4, filed December 9, 2004, with respect to the rejection(s) of claim(s) 1-12, 15-16 under 102 and 103 rejections have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. Applicant argument regarding new added claims 23-25 is not persuasive. Rejections on claims 23-25 are discussed below.

Claims 13, 17-22 have been cancelled.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 23 is rejected under 35 U.S.C. 102(e) as being anticipated by Slezak (US 6,006,257).

Regarding claim 23, the limitations of the claimed method for receiving a program transmitted through a source available through an Internet connection is are met by Slezak's disclosure as follow:

"using a program guide to select a program, wherein said program is capable of being received from at least two different sources available through said Internet connection" is met by using a list of movies displayed on a screen to select a program (col. 8, lines 18-26), wherein the program is capable of being received from multiple video servers (520) through the Internet connection (530 – figure 1);

"selecting a source from said at least two different sources in view of a geographical location of a user, wherein said selection of a source is performed without user intervention" is met by the web server, in response to user selection of primary program, directs the appropriate video server, based upon subscriber geographic location (col. 5, lines 33-54);

"receiving said selected program from said selected source" is met by receiving the selected primary program from the selected video server (figure 1, col. 5, lines 47-53).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak (US 6,006,257) in view of Boyland, III et al. (US 6,799,326).

Regarding claim 24, the limitations of the claimed method for decoding programming received from at least two sources are met by Slezak's disclosure as follow:

"decoding a program received from a first broadcast source, wherein said first source is selected from at least one of terrestrial broadcast, a satellite broadcast, and a cable broadcast" is met by decoding a primary program received from an appropriate video server (520) via cable network (510) – figure 1, col. 4, line 65-col. 5, line 10; col. 11, lines 10-43);

Slezak further discloses decoding commercials (secondary video programming) received from Internet (col. 11, lines 5-67). However, Slezak does not specifically disclose replacing at least one commercial with another commercial.

Boyland, III discloses replacing global commercial with local commercials (figure 10, 13 – 14; col. 2, lines 15-37). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Slezak to use the teaching as taught by Boyland III, in order to provide useful local advertising information to user (col. 1, lines 53-57) thereby giving more conveniences to user, and furthermore, improve efficiency in advertising.

Regarding claim 25, Slezak further discloses geographic information corresponding to a location of a user is used for selecting the commercial received from a second source (col. 4, lines 15-20; col. 5, lines 35-55).

### ***Allowable Subject Matter***

6. Claims 1-12, 14-16 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or fairly suggest a method for acquiring a program conveyed one more than one broadcast channel as variously claimed, particularly having the feature of acquiring the particular program from the first broadcast channel in response to user selection of second broadcast channel, wherein the broadcast channels are transmitted using the same transmission modality and the first broadcast channel is selected as the source for the particular program in view of geographical information and the program guide display lists a particular program on both a first and a second broadcast channel.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Yuen et al. (US 6,239,794) discloses method and system for simultaneously displaying a television program and information about the program.

Hite et al. (US 5,774,170) discloses system and method for delivering targeted advertisements to consumers.

Stinebruner (US 6,133,910) discloses apparatus and method for integrating a plurality of video sources.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH  
May 15, 2005

  
CHRIS GRANT  
PRIMARY EXAMINER